



1 APPEARANCES:

2 COMMISSIONERS PRESENT:

3 CHAIRMAN JON WELLINGHOFF (Presiding)

4 COMMISSIONER JOHN R. NORRIS

5 COMMISSIONER MARC SPITZER

6 COMMISSIONER PHILIP MOELLER

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## 1 P R O C E E D I N G S

2 (10:20 a.m.)

3 CHAIRMAN WELLINGHOFF: I apologize, everybody,  
4 for starting a little late here this morning. This meeting  
5 will come to order. This is the time and place that has  
6 been noticed for the open meeting of the Federal Energy  
7 Regulatory Commission to consider the matters that have been  
8 duly posted in accordance with the Government in the  
9 Sunshine Act. Please all join me for the Pledge of  
10 Allegiance.

11 (Pledge of Allegiance recited.)

12 CHAIRMAN WELLINGHOFF: Well since the May 20th  
13 Open Meeting we have issued 70 Notational Orders.

14 I've got a few announcements. First I would like  
15 to announce that on July 6th my colleagues and I will be  
16 holding a conference to address various issues concerning  
17 reliability.

18 It has been four years since the Commission  
19 certified NERC as the Electric Reliability organization. In  
20 that time, the Commission, NERC, and the regional entities  
21 and the industry have all gained valuable experience in  
22 implementing the mandatory Reliability Standards regime that  
23 was created by the EPAct 2005.

24 We are convening this conference to allow the  
25 Commission to hear industry perspectives on issues

1     pertaining to NERC standards development process;  
2     communications and interactions between the Commission,  
3     NERC, and the regional entities; and NERC and regional  
4     entities' monitoring and enforcement.

5                 I look forward to hearing from industry on these  
6     issues and encourage all interested persons to attend. I  
7     anticipate that a detailed agenda will be issued later this  
8     week.

9                 Also on Reliability, our General Counsel Tom  
10    Sheets has an announcement regarding a new unit that he has  
11    created in the General Counsel's Office to assist with legal  
12    issues regarding Reliability.

13                Tom?

14                MR. SHEETS: Thank you, Mr. Chairman.

15                We are putting together a six-lawyer team in the  
16    Office of General Counsel to deal with Electric Reliability  
17    issues. We are doing this in conjunction with the advice  
18    and counsel of my friend and colleague Joe McClelland, and  
19    also with the advice from Norman Bay and the Office of  
20    Enforcement.

21                Toward that end, I am pleased to announce today  
22    that we have appointed Jonathan First to the position of  
23    Special Reliability Counsel. I think Jonathan is here in  
24    the room. Jonathan, would you stand up?

25                (Mr. First stands.)

1                   MR. SHEETS: Jonathan has a great deal of  
2   experience on the Electric Reliability side, working with  
3   Joe McClelland's Office of Electric Reliability Group, and  
4   he is going to direct the activities of this new OGC six-  
5   lawyer group which will work very closely with Joe and his  
6   folks to hopefully enhance and fill out how our Reliability  
7   Enforcement activities are being undertaken.

8                   We are also, I would just tell you as a matter of  
9   course that with Joe McClelland's help we have been able to  
10   entice Terrence Burke to join OGC. He will be joining us  
11   next week. Terry is a very experienced utility-focused  
12   lawyer who has a background with Niagara Mohawk Power,  
13   Allegheny Energy, and Entergy Corporation. He will be  
14   working with Jonathan, and he is the first of what we hope  
15   will be this very well distinguished six-lawyer group that  
16   will assist Joe and assist Norman in these activities.

17                  Thank you.

18                  CHAIRMAN WELLINGHOFF: Thank you, Tom. I think  
19   this is a very significant step that will provide legal  
20   assistance to the Office of Reliability and the Office of  
21   Enforcement.

22                  I would also like to take a few moments to  
23   recognize the Commission's 2010 summer interns. Could I  
24   have you all please stand, and I'll embarrass you for a  
25   little while here?

1 (Laughter.)

2 (Interns stand.)

3 CHAIRMAN WELLINGHOFF: This summer we are hosting  
4 38 interns from 21 universities across 15 states. Their  
5 majors range from economics, to mathematics--that's a good  
6 major; that was mine--

7 (Laughter.)

8 CHAIRMAN WELLINGHOFF: --electrical engineering,  
9 computer engineering, computer science, conflict resolution,  
10 history, public policy, and law.

11 The Commission's internship program is designed  
12 to provide our interns with career experience in energy  
13 areas FERC regulates, as well as encouraging them to join  
14 the ranks of public service.

15 Many past interns have returned to the Commission  
16 as full-time employees--which we would encourage all you to  
17 consider--and have rewarding careers here. Several have  
18 gone on to leadership and management positions. And I spent  
19 much time, myself, in public service and as you begin to  
20 look at full-time employment I encourage each of you to  
21 seriously consider Federal service. It has been an  
22 interesting and rewarding journey, and I highly recommend it  
23 for any recent graduate. I think it is great experience,  
24 and I am pleased to have such a diverse group of interns  
25 working here with us, and I hope you do consider returning

1 to FERC after your internships are completed.

2 I also thank you all for choosing FERC as your  
3 summer home. Thank you.

4 (Applause.)

5 CHAIRMAN WELLINGHOFF: And as a final  
6 announcement matter, I have some sad news. We have a member  
7 of our family that is leaving. Kathleen Barr n is leaving  
8 home. I am sad that we're losing her as a trusted and  
9 valuable advisor, someone who has mentored me as much as I  
10 potentially have been able to mentor her; someone I have  
11 learned a great deal from, have the utmost respect for, and  
12 have had a wonderful opportunity to work with very closely.

13 I'll tell you that when I first met Kathleen I  
14 recognized immediately that she was a critical and valuable  
15 asset to myself and the Commission. And that is  
16 Government-speak for: Ms. Barr n is a force to reckon with  
17 and a person of great knowledge and value.

18 I want to extend to you, Kathleen, my sincerest  
19 gratitude and admiration for all the work you have done, and  
20 I am honored and proud to recognize you with the FERC Career  
21 Service Award.

22 (Applause and standing ovation.)

23 (Plaque presented.)

24 CHAIRMAN WELLINGHOFF: Colleagues, on Kathleen's  
25 departure? Commissioner Moeller?

1 COMMISSIONER MOELLER: Marc, I think--

2 CHAIRMAN WELLINGHOFF: Marc?

3 COMMISSIONER SPITZER: Thank you, Mr. Chairman.

4 In thinking what to say about Kathleen, it  
5 was--one late night I was down at IRS dealing with a guy who  
6 was doing interest computations, which is kind of an odd  
7 thing to spend all your time on, and it was around 2:00 in  
8 the morning, after settling a case at the Tax Court, and he  
9 said: You know, it's just funny that outstanding lawyers  
10 are such difficult people.

11 (Laughter.)

12 COMMISSIONER SPITZER: Then he kind of realized  
13 and he backed up and said: But not always.

14 (Laughter.)

15 COMMISSIONER SPITZER: The thing about Kathleen  
16 Barr n, an outstanding, brilliant attorney who is also  
17 engaging, she has a wonderful disposition particularly in  
18 complex cases where there are tight deadlines and a great  
19 deal of stress. And it is very rare to have a person of  
20 that great legal ability also have the ability to work with  
21 people so very well. In my dealings, I'm just so  
22 enthusiastic about her talents, and wish her great success,  
23 and also commend her for having the wisdom to marry an  
24 Arizonan.

25 (Laughter.)



1                   COMMISSIONER SPITZER: I've seen her kids with  
2 the UofA Wildcat T-shirts, and I think it's really cool.  
3 Kathleen, we'll miss you. Good luck to you.

4                   CHAIRMAN WELLINGHOFF: Thanks, Marc. Phil?

5                   COMMISSIONER MOELLER: Thank you, Mr. Chairman.

6                   It takes a rare set of skills to be an  
7 outstanding public servant. Dedication? Clearly there. I  
8 remember one Saturday morning we were in the elevator  
9 together and neither of us were too happy about it, but you  
10 were trudging on all through the weekend to put I think a  
11 rule together.

12                  Having the right disposition, where you can, as  
13 Commissioner Spitzer alluded to, get along with people,  
14 allow the right kind of negotiations to occur to get to  
15 where eventually we go; and to have that creative problem-  
16 solving which is a gift, and finding solutions to those  
17 challenging public policy problems that we deal with here  
18 and in other settings.

19                  So with all that, an outstanding public servant  
20 with a delightful family. You have had them to our house a  
21 few times for parties. So we will miss you very much, but  
22 wish you the best.

23                  CHAIRMAN WELLINGHOFF: John.

24                  COMMISSIONER NORRIS: Thank you.

25                  Kathleen, I haven't had a chance to work with you

1 very long, but long enough to know that you will be sorely  
2 missed and hard to replace, and I just want to wish you the  
3 best of luck.

4 CHAIRMAN WELLINGHOFF: Kathleen, you will be  
5 missed. Thank you, very much, and the best to you.

6 Madam Secretary, the Consent Agenda, please.

7 SECRETARY BOSE: Good morning, Mr. Chairman. Good  
8 morning, Commissioners.

9 Since the issuance of the Sunshine Act Notice on  
10 June 10th, 2010, Items E-1, E-2, E-3, E-5, E-6, E-17, E-22,  
11 and G-2 have been struck from this morning's agenda.

12 Your Consent Agenda for this morning is as  
13 follows:

14 Electric Items: E-7, E-10, E-12, E-13, E-14,  
15 E-15, E-18, E-20, and E-21.

16 Miscellaneous Items: M-1.

17 Gas Items: G-1.

18 Hydro Items: H-1, H-2, H-3, and H-4.

19 Certificate Items: C-2.

20 As to E-9, Commissioner Moeller is concurring  
21 with a separate statement. With the exception of E-9 where  
22 a vote will be taken after the presentation and discussion  
23 of this item, we will now take a vote on this morning's  
24 Consent Agenda beginning with Commissioner Norris.

25 COMMISSIONER NORRIS: I vote aye.

1 SECRETARY BOSE: Commissioner Moeller.

2 COMMISSIONER MOELLER: Aye.

3 SECRETARY BOSE: Commissioner Spitzer.

4 COMMISSIONER SPITZER: Aye.

5 SECRETARY BOSE: And Chairman Wellinghoff.

6 CHAIRMAN WELLINGHOFF: Aye.

7 If we could move on then, please, Madam

8 Secretary, to the Discussion Agenda.

9 SECRETARY BOSE: The first item for presentation  
10 this morning is Item E-9 concerning a Notice of Proposed  
11 Rulemaking on Transmission Planning and Cost Allocation By  
12 Transmission Owning and Operating Public Utilities.

13 The presentation will be by Russell Profozich  
14 from the Office of Energy Policy and Innovation, and he will  
15 be accompanied by John Cohen from the Office of the General  
16 Counsel.

17 MR. PROFOZICH: Good morning, Chairman  
18 Wellinghoff and Commissioners:

19 My name is Russ Profozich. I am with the office  
20 of Energy Policy and Innovation. Joining me today is John  
21 Cohen from the Office of General Counsel.

22 I would like to begin by noting that many staff  
23 from our two offices, as well as the Office of Energy Market  
24 Regulation and Office of Electric Reliability helped develop  
25 this draft Notice of Proposed Rulemaking. I would like to

1     thank them all for all their hard work in completing this  
2     document.

3                 This draft Notice of Proposed Rulemaking on  
4     Transmission Planning and Cost Allocation By Transmission  
5     Owning and Operating Public Utilities proposes to reform the  
6     electric transmission planning and cost allocation  
7     requirements of public utility transmission providers.

8                 The Commission has addressed transmission  
9     planning and cost allocation in a rulemaking most recently  
10    in Order No. 890. Following the Order No. 890 compliance  
11    filings, Commission staff held three regional technical  
12    conferences to further consider these issues in September  
13    2009 in Philadelphia, Atlanta, and Phoenix.

14                As a follow-up to these conferences, in October  
15    2009 the Commission issued a Notice of Request for Comments  
16    in which it posed a number of questions about the need to  
17    enhance transmission planning processes and to improve costs  
18    allocation for new transmission facilities.

19                In response to this Request, the Commission  
20    received 107 initial comments, and 45 reply comments. These  
21    conferences and comments provide much of the basis for this  
22    proposed rule.

23                This Notice of Proposed Rulemaking proposes a  
24    number of reforms for public utility transmission providers  
25    to correct deficiencies in transmission planning and cost

1 allocation procedures.

2                   For transmission planning, the proposed rule  
3 would:

4                   Require each public utility transmission provider  
5 to participate in a regional transmission planning process  
6 that produces a transmission plan for the region;

7                   Require regional transmission planning processes  
8 to consider transmission needed to meet public policy  
9 requirements established by state or federal laws or  
10 regulations;

11                   Remove from Commission-approved tariffs or  
12 agreements provisions relating to development of  
13 transmission facilities that provide an undue advantage to  
14 an incumbent transmission provider over a nonincumbent  
15 transmission developer, while preserving state authority;  
16 and

17                   Require public utility transmission providers in  
18 a transmission planning region to develop a transmission  
19 planning agreement with each neighboring region.

20                   For transmission cost allocation, the proposed  
21 rule would:

22                   Establish principles for allocating the costs of  
23 new transmission facilities so that the allocation of those  
24 costs is at least roughly commensurate with the distribution  
25 of benefits;

1           Require each public utility transmission provider  
2   to have a cost allocation method for new transmission  
3   facilities in this regional transmission plan that satisfies  
4   proposed cost allocation principles; and

5           Require public utility transmission providers to  
6   have a cost allocation method for new transmission  
7   facilities that result from the planning agreements  
8   implemented by neighboring regions that satisfies proposed  
9   cost allocation principles.

10          All public utility transmission providers would  
11   be required to make compliance filings with the Commission  
12   showing how they comply with these proposed requirements.

13          If the public utility transmission providers and  
14   others in a planning region cannot agree on a cost  
15   allocation method for new transmission facilities that  
16   satisfies the proposed principles, the Commission would use  
17   the record in the relevant compliance filings as a basis for  
18   developing the cost allocation method.

19          The Commission proposes that transmission  
20   providers that are not public utilities would be required to  
21   adopt the requirements of this proposed rule as a condition  
22   of maintaining the status of their safe harbor tariff or  
23   otherwise satisfying the reciprocity requirement of Order  
24   No. 888.

25          This completes my presentation. John and I would

1 be happy to answer any questions.

2 CHAIRMAN WELLINGHOFF: Russ and John, thank you  
3 very much. I want to thank all of the staff that's worked  
4 on this. I know the many hours, the evenings, and the  
5 weekends that you worked on this and I am very, very proud  
6 of you all for what we've done.

7 I also want to thank my colleagues and their  
8 advisors and all the hard work that they put in on this  
9 Order as well.

10 Today the Commission takes I believe the next  
11 step in enhancing the efficiency and effectiveness of the  
12 wholesale energy markets by proposing reforms to rules under  
13 which public utilities plan and recover costs for  
14 transmission expansion.

15 Changes driven by customer needs, emerging  
16 technologies, and new entry dictate that the Commission  
17 continually evaluate the rules governing transmission  
18 services and wholesale market operations.

19 Today's proposed revisions to transmission  
20 planning and cost allocation are responsive to such changes  
21 and build upon the work started three years ago in Order  
22 No. 890 which created a framework for an open and  
23 transparent planning process that enables stakeholders,  
24 including independent transmission developers, and those  
25 seeking to use technology in new ways to propose alternative

1 solutions for consideration in the planning process.

2 Last Fall the Commission staff completed a series  
3 of conferences held around the country to review how well  
4 those rules are meeting the needs of our Nation, and to  
5 collect input as to how the Commission can improve upon the  
6 regional transmission planning processes.

7 Thoughtful comments were submitted in response to  
8 questions that the Commission staff posed as a follow up to  
9 those conferences. The action the Commission is taking  
10 today is a natural progression in its efforts to support  
11 reliable and robust grid development.

12 A significant aspect of today's proposal is a  
13 proposal to require that transmission planning take into  
14 account public policy mandates such as renewable portfolio  
15 and efficiency standards at the state level.

16 These policy-driven mandates are leading to  
17 significant changes in the resources used to serve  
18 customers. By proposing to incorporate public policy  
19 mandates into transmission planning processes, we seek to  
20 ensure that these legal requirements are met in a way that  
21 is fair and efficient to transmission customers.

22 This proposed reform therefore complements the  
23 requirements of Order 890, pursuant to which transmission  
24 providers must engage in resource neutral evaluation of all  
25 potential solutions, including demand resources and emerging



1 technologies.

2           Our proposal does not, however, supplant local or  
3 bottom-up planning. Rather, we seek to build on existing  
4 local and regional transmission planning processes to  
5 increase their effectiveness; nor does our proposal seek to  
6 interfere with the operation of state or local laws or  
7 regulations.

8           Further, our proposal to remove provisions from  
9 FERC jurisdictional documents to provide an incumbent  
10 utility with undue advantage over nonincumbent transmission  
11 project developers acts to expand rather than limit options  
12 for transmission development that will enhance competition  
13 and control costs to consumers. It will also allow for  
14 more efficient use of capital and promote new transmission  
15 solutions.

16           Another significant aspect of today's proposal  
17 relates to the allocation of transmission costs. By  
18 proposing to tie cost allocation to the regional  
19 transmission planning process, we seek to facilitate the  
20 transition from planning to implementation in a way that  
21 again builds on existing processes.

22           The touchstone of today's proposal is the cost  
23 causation principle, ensuring that only those consumers  
24 benefitting from transmission facilities are charged for  
25 associated costs.

1           Our proposal does not impose a uniform method of  
2 allocating the costs of transmission, nor does it dictate  
3 how the benefits are to be derived or evaluated. Rather,  
4 the proposal allows each region the first opportunity to  
5 develop cost allocation mechanisms and identify for itself  
6 how the benefits of transmission facilities are to be  
7 determined.

8           For many regions of the country the pressing need  
9 for reforms on issues of transmission planning and cost  
10 allocation is being driven in a shift in the type of  
11 generation resources being developed in response to  
12 statewide renewable portfolio standards.

13           However, the challenges facing the integration of  
14 renewable energy resources are not limited to the build-out  
15 of transmission. The variability of certain renewable  
16 resources poses new operational challenges that can be  
17 managed not only with conventional generation resources but  
18 with such complementary technologies as electric storage and  
19 demand response.

20           There is also significant technological  
21 innovation that will impact the use and operation of the  
22 electric grid, including SmartGrid and electric vehicles.

23           The Commission has acted in recent months to  
24 address these challenges and support the development of  
25 complementary technologies by implementing proceedings on

1 the integration of variable energy resources, and on the  
2 appropriate level of compensation for demand response in  
3 organized wholesale electric markets.

4 We issued a policy statement on SmartGrid, laying  
5 the regulatory foundation for technologies that will improve  
6 the efficiency and reliable operation of the transmission  
7 system, and those that will offer consumers tools to manage  
8 their energy bills.

9 Our staff is monitoring the industry-wide process  
10 of developing interoperability standards for the SmartGrid,  
11 which we expect to be brought to the Commission in the  
12 coming months for review and approval.

13 Moreover, Commission staff is exploring  
14 additional ways to address these challenges by seeking  
15 comment and hosting technical conferences on matters ranging  
16 from the compensation mechanisms for energy storage, the  
17 tying of compensation for particular ancillary services to  
18 the resource's responsiveness, to efficiency improvements  
19 through improved modeling and optimization of electric  
20 system dispatch and planning.

21 And, as we will discuss later in the meeting,  
22 staff is presenting today the National Action Plan on Demand  
23 Response, which represents the culmination of 18 months of  
24 worth to identify strategies and activities to support the  
25 realization of the Nation's Demand Response potential.

1           The results of these discrete efforts, when  
2 brought together as a whole, comprise the Commission's  
3 strategic plan and are intended to improve the efficiency of  
4 wholesale electric markets by removing undue discrimination  
5 to other barriers to competition so that prices to consumers  
6 of wholesale electric energy are just and reasonable.

7           I am therefore pleased today to support the  
8 proposed rule on transmission planning and cost allocation  
9 reforms, and encourage thoughtful and candid comments on the  
10 proposals by interested parties.

11           Colleagues, comments? Marc?

12           COMMISSIONER SPITZER: Thank you, Mr. Chairman.  
13 And thanks to the team for the helpful summary of today's  
14 NOPR.

15           I support this effort and I look forward to  
16 reviewing the comments filed in response to the Commission's  
17 proposal. I recognize that today's NOPR will generate great  
18 interest, so I would like to stress a few points to put  
19 today's proposal in context and to illustrate what the  
20 Commission is proposing today.

21           It is a balanced response to important issues  
22 that we can no longer avoid. There is little if any  
23 dispute among regulators or market participants that this  
24 country needs to build more transmission facilities.

25           Transmission is critical to the Commission

1 fulfilling its obligation under the Federal Power Act to  
2 ensure that reliable wholesale electric service is provided  
3 at just and reasonable rates.

4 More transmission is necessary also for states to  
5 achieve their public policy requirements. But in any  
6 serious discussion about transmission, two questions arise  
7 again and again.

8 Who should plan for the new transmission?

9 And who should pay for the transmission  
10 facilities?

11 I am now convinced that until these questions are  
12 answered in a fair and reasonable manner, necessary  
13 transmission will not be built. There is uncertainty over  
14 the development of generation resources.

15 This problem is compounded by uncertainty over  
16 who will plan for, and who will pay for, transmission.  
17 Today's NOPR proposes a framework for the Commission, with  
18 input from our state colleagues and from industry, to  
19 address the questions of who will plan and who will pay for  
20 transmission.

21 Thus, I see today's proposal as a necessary step  
22 to eliminating uncertainty that has impeded the development  
23 of transmission. I am certain that our effort to establish  
24 transmission planning and cost allocation rules up front is  
25 a good thing to do.

1           While I anticipate legitimate differences of  
2   opinion on cost allocation, we as a country can no longer be  
3   encumbered by piecemeal or facility-by-facility decisions.  
4   Developing rules that provide certainty and clarity up front  
5   is necessary to foster much-needed investment and  
6   transmission which benefits this Nation's consumers.

7           That said, although the NOPR proposes ex-ante  
8   principles for transmission providers and planning regions,  
9   the NOPR leaves to the regions in the first instance  
10   decisions as the best way to meet these criteria. The NOPR  
11   does not advocate a uniform approach nationwide; it allows  
12   for regional differences in planning and in cost  
13   allocation.

14           Another issue I would like to address is commonly  
15   referred to as the "right of first refusal." Today's NOPR  
16   proposes to remove from any FERC-approved tariff or  
17   agreement those provisions that give a right-of-first-  
18   refusal to the incumbent utility. But I would like to  
19   stress that FERC is not proposing to preempt any state or  
20   local law or regulation that establishes a right-of-first-  
21   refusal.

22           All that FERC is proposing is that no FERC-  
23   approved tariff or agreement be the source of undue  
24   discrimination. Nothing in the NOPR seeks to change or  
25   preempt any state or local laws or regulations.

1           If we are serious about getting transmission  
2 built, then FERC should not erect barriers to an entity that  
3 demonstrates that it has the financial and technical  
4 expertise to construct, own, operate, and maintain  
5 transmission facilities.

6           The right-of-first-refusal of the NOPR only seeks  
7 to give a fair shot to all eligible developers as another  
8 means to foster much-needed transmission.

9           Again I thank the team for their hard work on  
10 this NOPR, and I look forward to reviewing the comments.

11           CHAIRMAN WELLINGHOFF: Thank you, Marc. Phil?  
12 John?

13           COMMISSIONER NORRIS: Thank you, Mr. Chairman.

14           Thanks, Russ, for your presentation. I believe  
15 today's Proposed Rulemaking is the appropriate and necessary  
16 next step to address the needed improvements to our Nation's  
17 electric transmission infrastructure.

18           Rather than proposing broad changes to the  
19 transmission planning processes as the Commission first  
20 required in Order 890, we are instead wisely choosing to  
21 build on existing efforts in the areas of transmission  
22 planning and cost allocation.

23           The reforms today that we propose all address  
24 targeted needs or gaps in the existing processes that were  
25 identified through extensive stakeholder outreach conducted

1 by Commission staff.

2 I believe it is important to recognize that we  
3 are asking our present electric transmission grid to do more  
4 than it was ever planned or constructed to do. While recent  
5 construction of transmission facilities have been designed  
6 to address modern demands on our system, by anyone's measure  
7 the improvements or expansion to date has been inadequate.

8 We are now asking our transmission infrastructure  
9 to support regional wholesale competitive markets, adapt to  
10 the technological capabilities of the SmartGrid, envisioned  
11 with SmartGrid, and facilitate the achievement of public  
12 policy goals such as expanded use of renewable energy and  
13 demand-side resources.

14 This means that modernizing and expanding our  
15 country's electric transmission system is vitally important.  
16 Through all this evolution and change, we are rightfully  
17 insisting that the system reliability be maintained or even  
18 improved where necessary.

19 Today the Commission proposes important steps  
20 forward in this National effort to expand and modernize our  
21 electric transmission infrastructure. Effective  
22 transmission system planning and cost allocation are  
23 critical prerequisites to ensure that the needed new  
24 facilities are constructed.

25 Well-functioning transmission planning processes



1     that bring together all the stakeholders to share knowledge  
2     and evaluate alternatives should facilitate the  
3     determination of what project or group of projects most  
4     efficiently meets transmission system needs.

5             For example, this rule would require that  
6     transmission planning processes consider transmission  
7     projects intended to help facilitate the achievement of  
8     public policy requirements established by state or federal  
9     laws or regulations.

10            Stakeholders told us that in some cases the  
11     existing planning processes don't provide a mechanism for  
12     transmission providers to plan for these requirements, and  
13     may even prevent them from doing so.

14            With our proposal today we want to enable regions  
15     with state renewable-energy requirements to be able to  
16     utilize the transmission planning process to identify and  
17     develop a necessary transmission to efficiently bring  
18     renewable-energy to their consumers.

19            Additionally, we propose to build upon the  
20     Order 890 planning requirements that transmission plans be  
21     developed not just for individual transmission providers but  
22     also for transmission planning regions as a whole.

23            This proposal addresses concerns that individual  
24     transmission providers producing individual plans may not  
25     have enough information or sufficient scope to assess

1 proposed projects and determine the most efficient and cost-  
2 effective choices.

3           The goal here is to get to a point where  
4 decisions can be made about what level of transmission does  
5 and doesn't need to be built to meet our reliability,  
6 economic, and public policy requirements, and the specific  
7 projects that will most cost-effectively meet those needs.

8           We also propose a set of targeted reforms to the  
9 existing transmission planning processes to ensure that  
10 those processes do not unfairly discriminate against  
11 nonincumbent transmission developers.

12           Significant sources of new capital are eager to  
13 invest in the transmission grid, and it is important that we  
14 ensure that transmission planning processes, subject to our  
15 jurisdiction, do not preclude any set of potential investors  
16 from participating in those processes and ultimately  
17 constructing new transmission facilities.

18           I am hopeful that our reforms in this area could  
19 unleash a wave of innovation to help address some of our  
20 most pressing energy needs.

21           Finally, our proposal today takes a further step  
22 forward from Order 890 in addressing the critical issue of  
23 transmission cost allocation.

24           As I've stated before, I believe that disputes  
25 and uncertainty with regard to cost allocation are holding

1 back the build-out and expansion of the transmission system.  
2 The proposed rule sets forth a set of principles and a  
3 process to work through disputes and provide more up-front  
4 certainty with respect to cost allocation.

5           We give the regions the opportunity to determine  
6 a cost allocation method, or methods, appropriate to their  
7 needs and system's characteristics.

8           In the event that the individual regions are  
9 unable to reach consensus on cost allocation, the Commission  
10 would use the record in the relevant compliance filings as a  
11 basis for developing the cost allocation method.

12           I am pleased to support the reforms we have  
13 proposed today but, as I noted, I believe they are a next  
14 step in addressing needed upgrades and expansion of  
15 transmission infrastructure. However, there are significant  
16 uncertainties in national policy that are beyond our  
17 control, and that will greatly impact efforts to build the  
18 transmission system of the future.

19           Without guidance and decisions from Congress on a  
20 national carbon and clean energy policy, it is exceedingly  
21 difficult if not impossible to know what future scenario the  
22 transmission system must be planned to support.

23           As long as this uncertainty remains, the reforms  
24 proposed in this NOPR, while worthwhile and important, do  
25 not represent all of the remaining pieces necessary to solve

1 our energy puzzle.

2           For that we must look to Congress. I do not  
3 believe that time is on our side in this matter. There are  
4 looming infrastructure needs to address critical challenges  
5 for our Nation's electricity supply.

6           The current timeline for transmission  
7 construction is not, in my mind, in sync with the time  
8 demands for addressing our electric generation and  
9 environmental policy needs.

10           The time for decisions on critical National  
11 energy policy is upon us. I am looking forward to reviewing  
12 the comments we receive in this NOPR and to discussing them  
13 with stakeholders in the coming months.

14           I believe it is critical that there be a  
15 constructive and open dialogue between the Commission, the  
16 industry, and other stakeholders as we move toward a final  
17 rule. I strongly urge all stakeholders to file comments in  
18 this NOPR so that we can fully understand all viewpoints.

19           In conclusion, let me also echo my fellow  
20 Commissioners' comments with heartfelt thanks to the  
21 Commission staff who worked I know extremely hard and  
22 tirelessly on this proposal. I know there were countless  
23 meetings with my staff and other Commissioners' staffs, and  
24 many late nights drafting language and responding to  
25 questions, and I appreciate your participation in this and

1 your hard work on this NOPR. Thank you.

2 CHAIRMAN WELLINGHOFF: Thank you, John. Phil?

3 COMMISSIONER MOELLER: First I have a kind of a  
4 sensitive questions for the team. Did you get any sleep  
5 last night?

6 (Laughter.)

7 COMMISSIONER MOELLER: You look pretty rested,  
8 actually.

9 Well, I am writing separately and it will outline  
10 some of my observations on this, but I think even the most  
11 casual observer of FERC would recognize that my top priority  
12 in nearly four years on the job is getting more transmission  
13 built in this country, largely because I think it is the  
14 ultimate enabler, to use a term that Nick Brown from SPP  
15 often mentions in terms of transmission.

16 Whether it's making markets work better,  
17 improving the reliability, allowing location-constrained  
18 resources to get to load, transmission is kind of the  
19 ultimate technology that can give us options as a Nation.

20 So that has been clearly my priority here, not  
21 only in terms of how we voted on things, but also some of  
22 the time we've spent. Earlier in the week, Commissioner  
23 Norris and Commissioner Spitzer and I--and the Chairman  
24 would have been there if he could have been--were in Alabama  
25 to talk to our colleagues from the City of New Orleans,

1 Texas, Arkansas, Louisiana, and Mississippi, about  
2 essentially getting more transmission built in that region.

3 A week ago I was in Little Rock meeting with the  
4 SPP and the three members of the Arkansas Commission again  
5 to emphasize how we can get more transmission built to  
6 protect consumers in that part of the country.

7 Two weeks ago Commissioner Norris and I visited  
8 the D.C. Public Service Commission and, although  
9 transmission wasn't the only topic of discussion, it was  
10 certainly relevant.

11 And a month ago I was in Columbus. I met with  
12 the members, or at least a couple of members of the Ohio  
13 Public Utility Commission, again with transmission being a  
14 high topic of conversation, along with reliability issues.

15 So I acknowledge all the time that colleagues  
16 from around the country, state colleagues, have spent with  
17 us and with me talking about these issues.

18 And some could argue--I would--that we should  
19 have probably as a Commission addressed some of the issues  
20 in this proposed rulemaking really years ago. But now we  
21 can't ignore them for much longer because we have a couple  
22 of pending cases before us where there are some creative  
23 approaches toward betting new technologies and new  
24 transmission and we must, frankly, address them eventually.

25 But we also need to acknowledge that the timing

1 of this is somewhat of a sensitive issue, because Congress  
2 is deliberating on this subject matter. And I am hoping  
3 that as we open up this proposed rule that it helps inform  
4 the debate on the Hill in terms of the various policies that  
5 they are considering that could give us guidance on some of  
6 the issues within the NOPR.

7           This is not going to be a perfect rulemaking.  
8 None of them are. I certainly ask all--I don't have to ask,  
9 but I'll ask that we get plenty of comments from different  
10 perspectives on where we perhaps got the policy calls right,  
11 and where they can be improved. But nevertheless, it's  
12 something that again we need to address, and therefore we  
13 can't put it off forever.

14           I'll be supporting it, again, with a separate  
15 statement.

16           Mr. Chairman.

17           CHAIRMAN WELLINGHOFF: Thank you very much, Phil.

18           Madam Secretary, I think we're ready for the  
19 vote.

20           SECRETARY BOSE: The vote begins with  
21 Commissioner Norris.

22           COMMISSIONER NORRIS: I vote aye.

23           SECRETARY BOSE: Commissioner Moeller.

24           COMMISSIONER MOELLER: Noting my separate  
25 concurrence, aye.

1 SECRETARY BOSE: Commissioner Spitzer.

2 COMMISSIONER SPITZER: Vote aye.

3 SECRETARY BOSE: And Chairman Wellinghoff.

4 CHAIRMAN WELLINGHOFF: I vote aye.

5 Let's go to the next item, please.

6 SECRETARY BOSE: The next item for presentation  
7 and discussion this morning will be Item A-3. This is  
8 concerning the National Action Plan on Demand Response.

9 The presentation will be given by David Kathan  
10 from the Office of Energy Policy and Innovation. He is  
11 accompanied by Caroline Daly also from the Office of Energy  
12 Policy and Innovation, Maria Farinella and Eric Eversole  
13 from the Office of the General Counsel.

14 MR. KATHAN: Mr. Chairman, Commissioners, good  
15 morning:

16 My name is David Kathan and I am with the Office  
17 of Energy Policy and Innovation. With me are Caroline Daly  
18 of the same office; Maria Farinella and Eric Eversole of  
19 the Office of General Counsel. Other members of the project  
20 team are behind me, to my right.

21 Today the Commission staff is publishing the  
22 National Action Plan on Demand Response by electricity  
23 consumers, which will be posted on the FERC website.

24 As you know, Section 529 of the Energy  
25 Independence and Security Act of 2007, also known as EISA,



1 requires the Commission to develop this Action Plan with  
2 input and participation from a broad range of stakeholders  
3 to meet three objectives:

4           First, identify requirements for technical  
5 assistance to states to allow them to maximize the amount of  
6 demand response resources that can be developed and  
7 deployed;

8           Second, design and identify requirements for  
9 implementation of a national communications program that  
10 includes broad-based consumer education and support; and

11           Third, develop or identify analytical tools,  
12 information, model regulatory provisions, model contracts,  
13 and other support materials for use by customers, States,  
14 utilities, and demand response providers.

15           "Demand response" refers to the ability of  
16 electricity consumers to respond to a reliability or price  
17 signal by lowering their electric power consumption. Demand  
18 response includes customer and consumer actions that can  
19 change any part of the load profile of a utility or region,  
20 not just the period of peak usage.

21           It is important to note that demand response is  
22 closely related to many SmartGrid activities. Many of the  
23 benefits attributed to investment in the SmartGrid are, at  
24 their core, demand response actions--such as better customer  
25 management of electricity usage in response to prices or

1 signals from grid operations.

2 In turn, investments in SmartGrid technologies  
3 such as smart meters help enable the demand response  
4 potential identified in the National Assessment of Demand  
5 REsponse Potential that was released last June.

6 In recognition of this linkage, the actions  
7 identified in the National Action Plan are designed to be  
8 consistent and in coordination with SmartGrid policies  
9 implemented at the Federal, State, and Local levels.

10 The National Action Plan has been developed and  
11 informed through an open process of consultation with all  
12 interested persons. FERC staff solicited input and  
13 participation throughout its development from a broad range  
14 of industry stakeholders, including industry  
15 representatives, demand response providers, state  
16 regulators, and other state officials, consumer  
17 representatives, and other non-governmental groups.

18 We released "A Discussion Draft on Possible  
19 Elements for the National Action Plan" in October 2009 for  
20 public comment.

21 A nationally webcast technical conference was  
22 held in November 2009 to obtain further input and feedback  
23 from interested entities.

24 After reviewing the ideas, advice, and comments  
25 by a broad range of entities, staff prepared and released

1 for further comment a draft National Action Plan in March  
2 2010. The combined input from over two years of outreach  
3 resulted in the National Action Plan released today.

4 At its core, the National Action Plan calls for  
5 two simultaneous, compatible paths of action:

6 The first is enabling development of price-  
7 responsive demand response programs, products, technologies,  
8 and incentives; and

9 The second is facilitating market penetration of  
10 a newly developing SmartGrid technologies and programs.

11 In addition, I want to make a few general points  
12 about the approach taken in the National Action Plan that is  
13 designed to ensure that the ideas developed there come to  
14 fruition.

15 As an initial step, the Plan calls for an  
16 innovative approach to the formation of a coalition to  
17 coordinate implementation of the strategies and activities  
18 developed in the Plan.

19 The Coalition could consist of state and local  
20 officials, electric utilities, load-serving entities, demand  
21 response providers, RTOs and ISOs, consumer advocates,  
22 residential, commercial, and industrial customers, the  
23 Federal Government--where appropriate--and other  
24 stakeholders. These strategies and activities are organized  
25 around three objectives identified in the EISA.

1           First, the Plan identifies activities to develop  
2     technical assistance to states. These technical assistance  
3     activities include national and regional educational forums,  
4     making demand response experts available to states,  
5     providing the results of demand response research, and  
6     establishing a program of on-site assistance.

7           Second, the Plan outlines the requirements of a  
8     national communication program that includes both direct  
9     outreach and educational programs at the national level and  
10    tailored local communications.

11          Under the national communications program,  
12    communications would be developed and supported through  
13    multiple channels and media to communicate as appropriate  
14    with the many audiences for demand response.

15          A fundamental design element of the national  
16    communications program is the Communications Umbrella, which  
17    would provide a broad message framework based on research on  
18    message effectiveness for use by local demand response  
19    implementors.

20          A variety of local communications could be  
21    designed consistent with this platform to inform customers  
22    about demand response programs, products, technologies, and  
23    incentives available in their areas.

24          Finally, the Plan identifies tools and materials  
25    that can be used by utilities, customers, States, and demand

1 response providers. The plan for the development,  
2 enhancement, or dissemination of tools and materials  
3 involves a web-based clearinghouse and tools and methods for  
4 assessing the impacts, costs, benefits, and operation of  
5 demand response programs.

6 An example of the type of tools and methods that  
7 could be created through the efforts of the National Action  
8 Plan is the Demand Response Impact and Value Estimation, or  
9 DRIVE model, being developed by the Brattle Group at the  
10 request of FERC staff.

11 The DRIVE model estimates the impact of a  
12 portfolio of demand response and SmartGrid programs on a  
13 utility's operations. An initial version of the DRIVE model  
14 will be posted soon on the FERC website for download.  
15 Those with an interest in assessing demand response benefits  
16 may use this model to perform their own analyses using the  
17 data and assumptions they choose.

18 With today's publication of the National Action  
19 Plan, staff turns its focus to the remaining statutory  
20 requirement under Section 529 of ESIA: the preparation of  
21 an implementation proposal together with the U.S. Department  
22 of Energy. FERC and DOE staffs already have begun to  
23 collaborate on these matters, and we look forward to  
24 delivery of an implementation proposal to Congress by  
25 December 2010.

1           The National Action Plan is intended to be a plan  
2   for many to implement: utilities, demand response  
3   providers, and States as well as Federal agencies, where  
4   appropriate. Although its actions are designed to apply  
5   across the country, the National Action Plan recognizes the  
6   important role that State and Local regulators play in  
7   developing the Nation's demand response potential. The  
8   coordinated efforts of Federal, State, and Local lawmakers  
9   and regulators--along with many private sector  
10  participants--are needed to enable achievement of this  
11  potential.

12           This completes my presentation.

13           CHAIRMAN WELLINGHOFF: Thank you, David. And I  
14  want to thank all the members of the team for their great  
15  work on this project. I think it is an extremely important  
16  one for our Nation to have this Plan out there and to have  
17  the ability to look at starting to implement parts of this  
18  plan, hopefully. And I know that you're going to work with  
19  DOE on developing that implementation strategy, and  
20  hopefully we can move forward with that.

21           Today fulfills the Commission's second part of  
22  the actions directed by Congress in the Energy Independence  
23  and Security Act. FERC staff today releases the National  
24  Action Plan on Demand Response.

25           In the National Assessment published by FERC

1 staff last June, significant potential for electric demand  
2 response was identified. With the publication of this  
3 Action Plan, the FERC staff has identified a set of concrete  
4 actions that will help achieve this potential.

5 In developing this Action Plan, the Commission  
6 staff consulted broadly with all interest groups over two  
7 years to formulate an effort to help the Nation to develop  
8 and deploy its consumer demand response resources.

9 I would like to express my gratitude to all the  
10 organizations and individuals who have taken time to provide  
11 FERC staff with their comments, input, guidance, and  
12 assistance.

13 One of the innovative steps called for in the  
14 Action Plan is the development of this private-public  
15 coalition. As David noted, this coalition will coordinate  
16 and combine the efforts of state and local officials, demand  
17 response providers, utilities, and load-serving entities,  
18 regional wholesale power market operators, consumer  
19 advocates, residential, commercial, and industrial  
20 customers.

21 I do have a question, though, for the team, one  
22 question: Have you had any ability to assess or gauge the  
23 interest level of actively participating in this coalition?

24 MR. KATHAN: We have received strong input and  
25 feedback from a variety--a broad array of stakeholders

1 throughout the development of the National Action Plan. And  
2 we have met with them throughout this process. There was a  
3 lot of interest, and many of the same stakeholders have  
4 expressed interest in assisting in implementation.

5 CHAIRMAN WELLINGHOFF: Good. That's terrific.

6 Well as David noted, the first step is working  
7 together with the U.S. Department of Energy to develop an  
8 implementation proposal. This joint implementation proposal  
9 is another step in the development of the demand response as  
10 a resource.

11 The Plan's idea of a coalition to bring together  
12 public and private actors and seek funding for the  
13 implementation of the actions in the Action Plan is novel  
14 and one that I will be discussing at the National Town Hall  
15 meetings next week. I am speaking there and looking forward  
16 to discussing the ideas for implementing the National Action  
17 Plan.

18 Again, I want to thank the team for all your work  
19 here. Colleagues? Comments? Marc?

20 COMMISSIONER SPITZER: Thank you, Mr. Chairman.

21 As the team described, EISA set forth three  
22 specific objectives for a National Action Plan. I believe  
23 the final version of the National Action Plan released today  
24 satisfies those objectives by proposing specific activities  
25 to, one, provide technical assistance to states; two,



1     implement a national communications program; and three,  
2     develop tools and models.

3             It is worth noting that the conclusions of the  
4     staff report are part of a proposal by FERC staff, not a  
5     decision by FERC or the Federal Government at large to  
6     mandate any particular approach. Instead, staff's report  
7     can serve as a helpful proposal to address the issues  
8     identified by Congress. Importantly, a proposal based on  
9     experience and feedback from stakeholders.

10            Specifically, as to the third objective of the  
11     statute, I would like to take a moment to highlight the  
12     DRIVE model which will also be available on the FERC  
13     website.

14            As the team explained, the DRIVE model is a tool  
15     to help regulators, industry, and other stakeholders  
16     determine the effects of various demand response programs.  
17     Of course the DRIVE model is limited in some ways. Most  
18     notably it does not measure the costs of DR programs.

19            However, it can be used to better understand the  
20     benefit side of a cost/benefit calculation. Most  
21     importantly, however, the DRIVE model is an open source  
22     model that brings together various sources of public data.

23            Moreover, the inputs, assumptions, calculations,  
24     and output are available in one transparent spreadsheet  
25     model so that users can update or modify the data and

1 assumptions to better estimate the impact of particular  
2 types of demand response programs for their regions. It is  
3 our expectation that this model will be helpful to users.

4 Finally, I would like to add my thanks to the  
5 team for their hard work on this staff report. As the team  
6 described, there was a wide ranging participation across a  
7 variety of stakeholders, public and private. There were  
8 several rounds of input and advice, including a technical  
9 conference and several rounds of written comments.

10 I also thank these participants for sharing their  
11 experience and perspectives and appreciate the ideas that  
12 were used to develop the recommendations ultimately set  
13 forth in this document.

14 Thank you.

15 CHAIRMAN WELLINGHOFF: Thank you, Marc. Phil?

16 COMMISSIONER MOELLER: I would just note that the  
17 team has worked very hard on this. They've done a nice job.  
18 But as Commissioner Spitzer pointed out, this is a staff  
19 report. It is not one that's adopted by the Commission.  
20 But you have represented us well and I look forward to the  
21 next round.

22 CHAIRMAN WELLINGHOFF: Thank you. John.

23 COMMISSIONER NORRIS: I just have one question on  
24 the DRIVE model. Will stakeholders, or someone using the  
25 DRIVE model, be able to evaluate the environmental impacts

1 associated with demand response that occurs in their  
2 particular system?

3 MR. KATHAN: Yes. The DRIVE model does actually  
4 include as one of the several impacts that it does simulate  
5 and estimate the changes in carbon emissions associated with  
6 various demand response scenarios, or what various inputs  
7 that a stakeholder or an interested party would want to put  
8 into it.

9 COMMISSIONER NORRIS: Any estimate of what you  
10 think users will discover with regard to the carbon use?

11 MR. KATHAN: Well, it's complicated. It can be  
12 beneficial, but the impact of demand response really depends  
13 upon the regional characteristics, and also how the demand  
14 response or SmartGrid actions would actually be implemented.

15 So it really depends.

16 COMMISSIONER NORRIS: I'll take that for now and  
17 see how it turns out.

18 Let me also add my thanks and appreciation for  
19 the staff, and stakeholders, and the States, and everyone  
20 who contributed to this, for your hard work on this. I  
21 understand it was even completed a few days before the  
22 deadline, so congratulations on that, as well. It's always  
23 nice to have it behind you. I know you've worked years on  
24 this, David, so I appreciate your efforts.

25 And I think this is a great model of how we have

1 to work together with States, and stakeholders, to resolve,  
2 and actually capitalize. Demand resources are an important  
3 equation that we've, under the Chairman's leadership, maybe  
4 recently discovered in this country, and I think this is a  
5 next step to help us realize the potential that demand  
6 response plays in capitalizing on demand side resources.

7           So this shall be useful. I would also note, one  
8 of the issues I think is how this encourages the technical  
9 assistance to the States on navigating demand response and  
10 provide them some guidance as we're all discovering how this  
11 federal/state jurisdiction works with regards to retail and  
12 wholesale demand response.

13           I would note that we have set up a panel at the  
14 Demand Response Collaborative at NARUC in July in Sacramento  
15 to address the issue of the aggregators and aggregation of  
16 the ARCs and how States and the FERC can work together to  
17 make sure we navigate the Order 719, and I think there are  
18 some questions out there, as I've talked to State  
19 regulators, about how this is going to work and how we can  
20 make this work.

21           So I just wanted to make note of that so people  
22 can look for that to come up at NARUC, and I look forward to  
23 that discussion out there on this issue.

24           Thanks again for your work.

25           CHAIRMAN WELLINGHOFF: I look forward to that

1 discussion, too, John. Thank you. And thank you for those  
2 comments.

3 Thank you, staff. Appreciate it.

4 If there's nothing more to come before the  
5 Commission, we are adjourned.

6 (Whereupon, at 11:14 a.m., Thursday, June 17,  
7 2010, the 960th open meeting of the Federal Energy  
8 Regulatory Commission was adjourned.)

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